

Serial No.: 09/719,183

Group Art Unit: 1615

Remarks

This Amendment is responsive to the Office Communication mailed August 31, 2001 (Paper No. 6). Entry of this Amendment and reconsideration of the subject application in view thereof are respectfully requested.

Claims

Claims 1-12 were pending. Claims 1-12 stand or stood rejected.

It is believed that entry of this amendment is timely filed. Notwithstanding, Applicants hereby authorize the Commissioner to charge any additional claim fees required by entry of this Amendment to Deposit Account No. 04-0480.

Claims 2-8 have been cancelled. Claims 1 and 9 have been amended in order to more clearly recite the present invention and to place former European claims into proper United States format. Support for this Amendment is apparent. Thus, no new matter is added.

Claim Rejection under 35 U.S.C. §112, Second Paragraph

Claims 1-8 were rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite. In particular, the Examiner alleged that

Claims 1-8 provide for the use of a wound dressing, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 1 has been amended to recite a method of treating an acute wound. As amended, claim 1 is sufficiently clear and definite for purposes of 35 U.S.C. §112, second paragraph. Withdrawal of rejection of claim 1 is respectfully requested.

Claim Rejection under 35 U.S.C. §102(b)

Claims 1-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by three patents; Carlisle, Errede et al., and Ewall. In particular, the Examiner alleged that:

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlisle (US Pat. No. 3,824,996).

As per claims 1-12, Carlisle discloses a wound dressing for the preparation of a substitute for a biological dressing for use in the treatment of acute wounds requiring the use of a biological dressing, the wound dressing comprising highly absorbent fibres (see reference column 1, lines

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1-68); (column 4, lines 1-55); (column 5, lines 20-27); (column 6, lines 37-52); (column 7, lines 2-14).

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Errede et al. (US Pat. No. 4,373,519). As per claims 1-12, Errede et al. discloses a wound dressing for the preparation of a substitute for a biological dressing for use in the treatment of acute wounds requiring the use of a biological dressing, the wound dressing comprising highly absorbent fibres (see reference column 3, lines 40-68); (column 4, lines 7-66); (column 14, lines 54-68); (columns 15 and 16, lines 1-68); (column 18, lines 1-20).

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ewall (US Pat. No. 4,977,892). As per claims 1-12, Ewall discloses a wound dressing for the preparation of a substitute for a biological dressing for use in the treatment of acute wounds requiring the use of a biological dressing, the wound dressing comprising highly absorbent fibres (see reference column 2, lines 5-50); (column 3, lines 43-50); (column 4, lines 3-23); (column 5, lines 29-48).

Applicant disagrees that claims 1-12 are anticipated by either Carlisle, Errede et al., or Ewall. A claim is anticipated by a reference only if each and every element of the claim is found, either expressly or inherently, in that reference. See MPEP 2131. Thus, the identical invention must be shown in complete detail as is contained in the claim. See *id.* Moreover, a process patent can only be anticipated by a similar process, not a prior apparatus. See *Window Glass Mach. Co. v. Smethport Window Glass Co.*, 266 F. 85, 94 (D.C. Pa. 1917). Abiding by these standards, it is clear that neither Carlisle, Errede et al., or Ewall anticipate the invention as claimed in claims 1, 9, 10, 11, or 12.

Carlisle

Claims 1, 9, 10, 11, and 12 are directed to a method of treating an acute wound with a wound dressing for the preparation of a substitute for a biological dressing or skin graft. Applicant asserts that Carlisle does not disclose, either expressly or inherently, the use of a wound dressing as a substitute for a biological dressing or skin graft. In fact, Carlisle does not disclose a method at all. Carlisle discloses an apparatus - a wound dressing substantially constructed from cellulosic material, formed in thin layers, and is non-compressible and has a high rate of absorbency for water and blood, irrespective of gravity. (See column 6-8). A method of treating a wound with a wound dressing as disclosed in claims 1 and 9-12 is simply not mentioned in Carlisle.

In addition, Carlisle does not disclose or suggest a method of treating a wound

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with a wound dressing by adhering the wound dressing directly onto the wound, much less a method of treating a wound with a wound dressing under conditions that are conducive to epithelial cell outgrowth in the wound during treatment, as recited in amended claim 1 of the present invention. Thus, claims 1 and 9-12 are not anticipated by Carlisle. Withdrawal of rejection under 35 U.S.C. §102(b) is respectfully requested.

Errede et al.

Similarly Errede et al., also does not disclose, either expressly or inherently, a method for treating a wound with a wound dressing as a substitute for a biological dressing or skin graft. Instead, Errede et al., discloses an apparatus - a wound dressing comprised of a polytetrafluoroethylene fibril matrix containing moisture-controlling hydrophilic absorptive particles enmeshed in the matrix that serves to absorb blood and exudate.

Errede et al. does not disclose or suggest a method of treating a wound with a wound dressing by adhering the wound dressing directly to the wound as is claimed in claim 1 of the present invention. Rather, Errede et al. teaches away from the present invention by specifically disclosing an apparatus intended to be "non-adherent to the wound-surface." (See column 1 of Errede et al. patent). Furthermore, Errede et al. does not disclose a method of treating a wound with a wound dressing under such conditions to promote vertical wicking into the dressing and epithelial cell outgrowth in the wound during treatment, as is recited in claim 1 of the present invention. Thus, claims 1, 9, 10, 11, and 12 are not anticipated by Errede et al. Withdrawal of rejection under 35 U.S.C. §102(b) is respectfully requested.

Ewall

Ewall does not disclose, either expressly or inherently, a method of treating a wound with a wound dressing as a substitute for a biological dressing or skin graft. In fact, Ewall does not disclose a method but an apparatus - a wound dressing capable of retention of wound exude which comprises several layers including an adhesive layer, a fabric level which gives the dressing structural integrity, a hydrophilic absorbent polymeric layer, and at least one occlusive backing layer. A method for treating a wound with a wound dressing disclosed in claims 1, 9, 10, 11 and 12 of the present invention is simply not mentioned in Ewall. Further, Ewall does not disclose a method of treating a wound with a wound dressing as a substitute for a biological dressing under conditions that are conducive to epithelial outgrowth as recited in claim 1 of the present invention. Moreover, Ewall does not disclose a

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method for using the wound dressing for the treatment of burns. Thus, claims 1 and 9-12 are not anticipated by Ewall. Withdrawal of rejection under 35 U.S.C. §102(b) is respectfully requested.


Fee Deficiency

- ☒ If an additional extension of time is required for consideration of this paper, please consider this paper to comprise a petition for such an extension. The Commissioner is hereby authorized to charge the fee for any extension Deposit Account No. 04-0480.
- ☒ If any additional fee is required for consideration of this paper, please charge Account No. 04-0480.

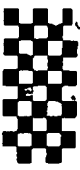
Closing Remarks

Applicants thank the Examiner for the Office Action and believe this response to be a full and complete response to such Office Action. Accordingly, favorable reexamination and reconsideration in view of this response and allowance of the pending claims are earnestly solicited.

Respectfully submitted,


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Detail of claim amendments

1. (Amended) A method of treating an acute wound using [use of] a wound dressing as [for the preparation of] a substitute for a biological dressing or skin graft [for use in the treatment of acute wounds] comprising the steps of

- a) applying the wound dressing to the wound; and
- b) allowing the wound dressing to adhere to the wound for a period of time effective to promote epithelial outgrowth and promote vertical wicking into the dressing, wherein the wound dressing comprises highly absorbent fibers.

9. [In a] The method [for the treatment of an acute] of treating a wound according to claim 1 wherein the wound dressing comprises [which method involves the step of placing a skin graft or biological dressing over said acute wound, the improvement comprising substituting for said skin graft or biological dressing a dressing comprising] highly absorbent fibers selected from the group consisting of alginates, viscose, modified cellulose, cellulose, polyester, polypropylene and co-polymers thereof, pectin, chitosan, hyaluronic acid or mixtures thereof, which dressing adheres to the wound while allowing outgrowth of the wound epithelium during treatment.

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